

Lawyer's Notes

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Lawyer's Notes

ERRATA SHEET

To the August 7, 1996 deposition of Michael Lehmkuhl.

The deponent having a right to make any changes deemed necessary, hereby makes the following changes into the deposition and states the reason for each change accordingly.

Page 113, Lines 18- 20

Change: My answer remains unchanged. I wish, however, to clarify that I did not receive direct authorization from Mr. Price with respect to Mr. Coran. I did not speak personally to Peter Price but knew of Mr. Price's general instructions to our firm to cooperate with requests associated with "due diligence" matters at the time.

Reason for Change: This change is for clarification only. This matter took place over a year and one half ago.


DEPONENT'S SIGNATURE

CERTIFICATE OF DEPONENT

I have read the foregoing 186 pages which contain
the correct transcript of the answers made by me to the
questions therein recorded.

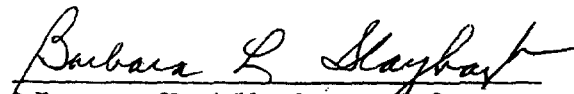


Michael Lehmkuhl

* * *

Subscribed and sworn before me this .

23rd day of September, 19 96.


Notary Public in and for .

District of Columbia

My commission expires July 31, 1998.

In The Matter Of:

Before the FCC - [REDACTED]

In Re: Application of Liberty Cable Co., Inc

Behrooz Nourain

Vol. 1, May 29, 1996

Miller Reporting Company, Inc.


507 C Street, N.E.

Washington, DC 20002

(202) 546-6666 FAX: (202) 546-1502

*Original File 0529nour.asc, 241 Pages
Min-U-Script® File ID: 2094869189*

Word Index included with this Min-U-Script®

	Docket #	96-41	Exhibit	7
	Submitted by	Liberty / Bureau		
	Disposition	Identified	<input checked="" type="checkbox"/>	
		Received	<input checked="" type="checkbox"/>	
Rejected		<input type="checkbox"/>		
Reporter	P			1-10-97

BEFORE THE FEDERAL COMMUNICATIONS COMMISSION

In re: Application of : WT Docket No.
: 96-41

Liberty Cable Co., Inc. :

CONFIDENTIAL

Wednesday, May 29, 1996

Washington, D.C.

The deposition of BEHROOZ NOURAIN, called
for examination by counsel for Federal
Communications Commission in the above-entitled
matter, pursuant to notice, in the offices of
Fleischman and Walsh, 1400 16th Street, N.W., Sixth
Floor, Washington, D.C., convened at 9:47 a.m.,
before David A. Kasdan, RPR, a notary public in and
for the District of Columbia, when were present on
behalf of the parties:

Page 1

APPEARANCES:

On behalf of the Applicant:

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Constantine & Partners

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Washington, D.C. 20036

(202) 939-7900

On behalf of the Federal Communications
Commission:

KATHERINE C. POWER, ESQ.

JOSEPH PAUL WEBER, ESQ.

MARK L. KEAM, ESQ.

Enforcement Division

Federal Communications Commission

Wireless Telecommunications Bureau

2025 M Street, N.W.

Washington, D.C. 20554

(202) 418-0919

Page 2

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By Mr. Beckner 178

EXHIBITS

NUMBER MARKED FOR IDENTIFICATION

Nourain No. 1 80
Nourain No. 2 102
Nourain No. 3 123
Nourain No. 4 124
Nourain No. 5 131
Nourain No. 6 163
Nourain No. 7 182
Nourain No. 8 214

Page 3

PROCEEDINGS

Whereupon,

[1]

[2]

[3] BEHROOZ NOURAIN

[4] was called for examination by counsel for the
[5] Federal Communications Commission and, after having
[6] been duly sworn by the notary public, was examined
[7] and testified as follows:

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(1) limited to one admittedly long day to examine
(2) Mr. Price. That's the simple issue. And I take it
(3) your position is that we are, and Holt's position
(4) is we are not.
(5) MR. SPITZER: We don't need to get into
(6) this issue, but I think you had scheduled one day
(7) for Mr. Price, and you had put, in fact, one
(8) document we received, I suppose it was, from the
(9) Commission rather than from Time Warner, but there
(10) had been a number of hours requested for each
(11) witness, and--am I correct? I don't remember if he
(12) was four or eight hours.
(13) MR. WEBER: It was eight hours, but it
(14) wasn't a request. The Bureau estimated.
(15) MR. SPITZER: That's right. The notion
(16) there was one day set aside for Mr. Price. And we
(17) started early and went through the end of the day.
(18) MR. BECKNER: There is no dispute about
(19) the Bureau's letter, and Mr. Weber or Ms. Power can
(20) speak more authoritatively than I can. The Bureau
(21) did send a formal letter requesting depositions of
(22) people on certain days, and as I recall on behalf

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(1) of not only the Bureau but Cablevision and Time
(2) Warner expressly, and there was a completed
(3) paragraph in the letter by which, as I recall, the
(4) Bureau made it clear that its position was the
(5) deposition would continue until it was completed
(6) even if it meant going more than one day.
(7) MR. SPITZER: If necessary, if Mr. Holt is
(8) around to make an application to the judge, he's
(9) free to make an application. It's my understanding
(10) that the parties participated and concluded their
(11) examination.
(12) EXAMINATION BY COUNSEL FOR THE
(13) FEDERAL COMMUNICATIONS COMMISSION
(14) BY MR. WEBER:
(15) Q: Would you please state your full name.
(16) A: Behrooz, B-E-H-R-O-O-Z, Nourain,
(17) N-O-U-R-A-I-N.
(18) Q: Have you ever had your deposition taken
(19) before, sir?
(20) A: No.
(21) Q: I'm sure counsel has explained to you, but
(22) I also explain to you briefly what I'm going to be

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(1) doing. I'm going to be asking you questions about
(2) your knowledge of certain events, and I expect as
(3) full and complete answers as you are capable of
(4) giving.
(5) I would not like you to guess. And if
(6) you're guessing to answers, tell us that you are
(7) guessing at the answers. Instead, tell us what it
(8) is you know.
(9) If you don't understand a question, ask me
(10) to rephrase it or tell me what you don't understand
(11) and I will try to make it clear. My job is not to
(12) try to trick you, but instead to try to find out
(13) the information that you possess.
(14) Also be sure to try to give your answers
(15) verbally as opposed to nodding of the head because
(16) the Court Reporter obviously cannot take down those
(17) types of gestures.
(18) I noticed today you are with counsel for
(19) Liberty. Are you represented by anybody other than
(20) Mr. Begleiter and Mr. Spitzer?
(21) A: No.
(22) Q: Were there ever any discussions whether or

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(1) not it would be advisable for you to obtain
(2) separate counsel?
(3) A: There was a discussion, they gave me the
(4) choice, and I said that I chose them, and that's
(5) where we are.
(6) Q: Could describe for us your educational
(7) background.
(8) A: I finished high school at my home country
(9) in Iran, Tehran.
(10) September 1970 I entered Michigan Tech
(11) University, and I completed my Bachelor of Science
(12) degree in electrical engineering 1974, and
(13) continued in same university and obtained my
(14) Master's degree on September '75.
(15) So I have a Bachelor of Science and Master
(16) of Science in electrical engineering from Michigan
(17) Technological University.
(18) Q: Upon graduating with your Master's, did
(19) you then begin to work as an electrical engineer?
(20) A: Yes.
(21) Q: And where did you work at that time?
(22) A: I moved back to my home country, Tehran,

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(1) and I was working for National Iranian Oil Company
(2) in Tehran, Iran.
(3) Q: How long did you work there?
(4) A: Started in '76, and I was there until
(5) 1983.
(6) Q: And where did you go at that point?
(7) A: I moved back to the United States, and
(8) November 1983 started work for Western Union
(9) Telegraph Company.
(10) Q: What did you do for Western Union?
(11) A: I was systems engineer.
(12) Q: What kind of systems did you work on at
(13) Western Union?
(14) A: Microwave systems and involved in some
(15) fiber optics.
(16) Q: When did you leave Western Union?
(17) A: Last day was on December 1985, that month.
(18) Q: Where did you go at that point?
(19) A: I started with a company named Local Area
(20) Telecom the following January in New York City.
(21) Q: You started this company? Did you say you
(22) started this company?

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(1) A: I started with this company.
(2) Q: What kind of work did you do there?
(3) A: I was engineer manager.
(4) Q: What kind of engineering work did you do?
(5) A: Short-haul microwave systems.
(6) Q: When you said "manager," what did you mean
(7) by "manager"?
(8) A: It was merely a title because it was Vice
(9) President of Engineering, which was in charge of
(10) engineering. And I was the first actual electrical
(11) engineering they hired, and I was doing a lot of
(12) engineering work as well as managing my work and
(13) performing managerial work such as ordering
(14) materials and talking to the vendors. Basically
(15) project manager. It was mostly a project manager.
(16) Then a day-to-day manager of the
(17) department, the vice president of the engineer
(18) department.
(19) Q: Did you have engineers underneath you?
(20) A: At the time when I started, no.
(21) Q: Eventually you had a staff of engineers
(22) working under you?

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[1] A: Eventually, what I recall, one engineer
[2] was hired possibly six or seven months after I was
[3] there because the workload, and then within few
[4] months after that we did complete restructuring.
[5] And then I was promoted to Director of Engineering.
[6] And we hired one more, and I don't know exactly
[7] when, but by the time I left the company, the
[8] company had about four engineers working for me,
[9] and I was Senior Director of Engineering, and the
[10] person I was referring to, I replaced him so I was
[11] actually head of the engineering.
[12] So the progression's really for five
[13] years. It was slow. It was a small company.
[14] Q: Were the type of facilities that you
[15] worked on here facilities that required FCC
[16] authorizations?
[17] A: Yes.
[18] Q: Did you have any responsibilities in
[19] applying for the FCC authorizations?
[20] A: As part of getting the FCC authorization,
[21] the only responsibility I had was to engineers
[22] assistant and get the coordination to the search

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[1] firm. We had a general counsel in the company
[2] which would do with the help of-I believe they had
[3] some people in Washington who were probably working
[4] on applications. They were doing strictly the
[5] legal part of that work. My job was to-or my
[6] people, my staff-do the design of the system, get
[7] the coordination, all the technical part and sent
[8] to search firm, whether it was Comsearch or others.
[9] And at that point the counsel, in-house counsel,
[10] will take over and take care of any related FCC
[11] work.
[12] Q: Where did you go after leaving this
[13] company?
[14] A: Left, I believe, 1990, the end of 1990,
[15] and then I got a consulting position with a company
[16] called Micronet in, I believe, Jamison,
[17] Pennsylvania, or some areas like that.
[18] Q: And what did you do for Micronet?
[19] A: I was working on their-I was a consultant
[20] to work on some engineering projects that they had
[21] which was mainly upgrade of their existing system,
[22] microwave systems.

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[1] And that was part of the job they hired me
[2] for, and I was doing some other engineering
[3] proposals since I was hired as an engineer there to
[4] help out the company. They didn't have a complete
[5] engineering staff, that some guy was head of the
[6] engineering and I was doing consulting.
[7] Q: Were the microwave systems operated by
[8] Micronet also microwave systems requiring FCC
[9] authorizations?
[10] A: Those systems were already built. It was
[11] just operate the equipment. And if it was needed
[12] to be licensed for it, they were all procured by
[13] that, and I wasn't even involved in that part of
[14] it.
[15] Q: How long were you with Micronet?
[16] A: I was there until August of same year,
[17] 1981. I was there about eight months.
[18] Q: You mean '91?
[19] A: I'm sorry. '91.
[20] Q: Where did you go after leaving there?
[21] A: I didn't work until I joined this company.
[22] I broke my leg, so I had an operation. So in

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[1] August of 1991 until March of 1992 I wasn't
[2] working.
[3] Q: Did you join Liberty, then, in March of
[4] '92?
[5] A: I think would be somewhere March of '92 or
[6] April. I'm not sure of the date, but late March or
[7] very early April, because I know I did some
[8] interview March. I don't know exactly when the
[9] starting date.
[10] Q: What was the position you were hired as?
[11] A: They had advertising in New York Times
[12] that they needed systems engineer, microwave
[13] engineer, one or the other, for 18 gigahertz
[14] microwave systems, and that's where I applied.
[15] And they told me that the company policy
[16] is that they hire me as a consultant as they
[17] generally do for a couple of months. And if
[18] everything works out, from there I would-if we
[19] like each other, I would be hired permanent.
[20] So from what I believe first couple of
[21] months somewhere in May, I was hired as a
[22] consultant, and I was doing engineering work.

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[1] Q: Who at Liberty, if you can recall, hired
[2] you as a consultant?
[3] A: I interviewed with a man named Joe Stern
[4] because he was the person who put the ad in the
[5] paper on behalf of Liberty.
[6] He made an arrangement for me to meet
[7] Bruce McKennon, which I guess was vice president of
[8] operations at the time. I don't remember his exact
[9] title. Then I interviewed with him.
[10] And then became an arrangement that I
[11] start as a consultant, as I mentioned before.
[12] Q: Did you know either Mr. Stern or
[13] Mr. McKennon prior to interviewing with them?
[14] A: No.
[15] Q: As a consultant, what were your initial
[16] responsibilities for the company?
[17] A: I was told-actually was told by
[18] Mr. Stern, I was talking that his responsibility
[19] was prior to my joining the company to get involved
[20] into building the microwave network, and at that
[21] point he said just his job was pretty much
[22] completed, and they need someone to actually

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[1] continue from there to operate, continue the
[2] microwave network, working on the microwave network
[3] because the network was built about three or four
[4] months prior to that.
[5] So I was hired to pretty much-I was told
[6] to start over, and they continued with what's been
[7] on plan, and we decide after two months I was told
[8] how we were going to go at that time.
[9] Q: And how were you going to go at that time?
[10] A: The question is what happened after the
[11] two months?
[12] Q: Right.
[13] A: No, no. If you recall on the previous
[14] discussion, they said this is going to be two
[15] months until we see how we like each other and from
[16] there on they will decide that they want to hire me
[17] permanently. The reason is I didn't want to work
[18] as a consultant. My aim was to be permanent.
[19] So I took that job with the understanding
[20] that after the interim period, which they told me
[21] generally is a company policy, if I was going to
[22] continue with this company, I should be employed as

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(1) a permanent.
(2) Q: I take it after the two months they did
(3) hire you permanently?
(4) A: That is correct.
(5) Q: Did your duties or responsibilities change
(6) at all upon being hired permanently?
(7) A: I'm sorry?
(8) Q: Did your duties or responsibilities change
(9) at all after you were hired permanently as opposed
(10) to what you were doing when you were a consultant?
(11) A: Very minimal change.
(12) The only thing was during that interim
(13) period, I was working basically with a current
(14) consultant, Stern Communications, and I would look
(15) at about now, look back on it, it was a transition
(16) period. The idea was for me not to do my work, to
(17) decide after two months to go with that,
(18) understanding that, even with Mr. Stern,
(19) understanding that I will probably slowly take
(20) over, and my responsibility would be more and more
(21) and his firm's responsibility would be less and
(22) less, until at some point I would probably take

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(1) completely over. I looked at it as a transitional
(2) period.
(3) Q: During this early period, during the
(4) transition period, was Stern one of your
(5) supervisors? Did you report directly to Mr. Stern?
(6) A: No.
(7) Q: Who did you report to during this period?
(8) A: Bruce McKennon.
(9) Q: As you started taking over more and more
(10) responsibilities, could you describe to us what
(11) these additional responsibilities were.
(12) A: Mainly the technical responsibility that I
(13) had was take a look at the network which was built,
(14) and take over some of the interrelationship which
(15) Stern had with our vendors. So like, for example,
(16) the manufacturer of the antenna, I was starting to
(17) talk to them directly. And make sure that the
(18) system's network was built, give evaluation on
(19) that, and if there was any design changes need to
(20) be done, I work on that.
(21) And work on most of the new projects that
(22) were coming in, do a lot of pre-sales engineering

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(1) because at that point sales people still were
(2) selling-trying to sign up customers and they
(3) needed surveys, site surveys and engineering
(4) information, and I was involved in doing that for
(5) them. And start helping maintaining the system.
(6) And at some point the idea was that less
(7) and less of Stern, more and more of me. So that's
(8) how we went ahead.
(9) Q: You first referred to taking a look at the
(10) network which was already built. However, at this
(11) point was-is it correct to say that Liberty was a
(12) growing company, that they were actually expanding
(13) their network?
(14) A: No. The network was built in very early
(15) '92, and by the time I joined them, they had the
(16) network completed, and I believe they had two, two
(17) customers.
(18) Q: Could you explain to me, then, what you
(19) mean by the network.
(20) A: The network consisted of two tiers of
(21) system in Manhattan. One was on the east side and
(22) one was on the west side. The head-end equipment

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(1) is in Normandie Court, and when I joined the
(2) company and looked at the network, there were two
(3) transmitters at the roof of the Normandie, one of
(4) them which was called the east transmitter. The
(5) other one was called the west transmitter.
(6) Each one of these transmitters ran over
(7) two different buildings, two repeaters, so I would
(8) call it a west and east network that would consist
(9) of a transmitter and two repeater sites, which
(10) consisted of 60, 65 blocks. The second repeater on
(11) the east side went to about 54th and 31st Street,
(12) and the west one went to 44th Street, West 44th
(13) Street, and head-end equipment, the source of the
(14) system transmission, was on the Normandie, which
(15) was on the 96th Street.
(16) So there were two network-I think the
(17) objective was try to cover pretty much most of
(18) midtown Manhattan and all the way down to the
(19) business district about close to the lower part of
(20) Manhattan. And that was work that was basically in
(21) place, and that was actually network. And there on
(22) the question was get the subscriber and use those

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(1) transmitter sites to go to the different
(2) subscribers. And initially there were only two
(3) that had been off of that, I believe two or three.
(4) I don't know exactly.
(5) Q: In order to go to subscribers, you would
(6) have to build receiver sites; correct?
(7) A: Yes.
(8) Q: At that point in time in '92, was Liberty
(9) expanding the number of receiver sites it was
(10) putting in place?
(11) A: I don't understand the question.
(12) Q: During the course of 1992 while you were
(13) working for Liberty, was Liberty putting in place
(14) more receiver sites?
(15) A: Mentioning after because my thought was
(16) still in that transition time. You are talking
(17) about during '92?
(18) Q: Yes.
(19) A: You are talking about when I joined until,
(20) say, December of '92?
(21) Q: Right.
(22) A: Yes. They proceeded to have more receiver

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(1) sites, that's correct.
(2) Q: What were your initial responsibilities as
(3) to the installation of receiver sites?
(4) MR. BEGLEITER: During the transition
(5) period or after?
(6) BY MR. WEBER:
(7) Q: During the course of 1992.
(8) A: Do the survey and buy the material. Some
(9) of the systems were already designed prior to my
(10) arrival. If they were designed and licensed
(11) already, take a look at the Comsearch coordination
(12) data sheet to make sure that they were
(13) technically-all the work, technical work, has been
(14) done on them. That was for the ones that were
(15) already licensed. And then basically have the
(16) contractor build it and operate that. And that's
(17) the way we proceeded.
(18) Q: In 1992, was it your understanding that
(19) the receiver sites had to have an FCC authorization
(20) in order to operate?
(21) A: Yes, should have an authorization to
(22) operate.

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(1) Q: Did you have any responsibilities during
(2) 1992 in procuring an FCC authorization?
(3) A: My responsibility at that point was same
(4) as before. Try to do the survey, get the
(5) coordination of the technical part of it completed,
(6) and send information to the Comsearch as a firm, do
(7) the work for Liberty Cable and make sure that they
(8) work with them and coordinate and review the
(9) technical part of it.
(10) At that point I was told there was a firm
(11) in Washington, Pepper & Corazzini, which would do
(12) all the FCC work, and I would have Comsearch send
(13) information to them.
(14) Q: Even in '92 you requested Comsearch to
(15) send material to Pepper & Corazzini?
(16) A: If it was one that had never been worked
(17) on before. That means, if that was the building
(18) which was just starting. There was no record of
(19) that because, '92 and '90, when I started with the
(20) company, there were a number of receiver sites
(21) already been licensed or were in the process of
(22) being licensed.

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(1) And then it depends on when the project
(2) was--if it was licensed, then no need to do anymore
(3) work, unless there was some modification, technical
(4) modifications.
(5) My main procedure was on the new
(6) buildings, if there was a new building.
(7) Q: You were referring to you only had
(8) Comsearch do this if it wasn't already licensed.
(9) How did you know which ones were already
(10) licensed?
(11) A: There were some licenses already being
(12) sent to Liberty Cable for some of the path, which
(13) was study of the license in 1991 which they
(14) received their license in '92 on that.
(15) Q: And by saying some licenses are already
(16) sent, are you saying they were sent by the FCC or
(17) sent by Pepper & Corazzini?
(18) A: I don't know by whom, but all I know is
(19) there was a file--there was some licenses that had
(20) already been given to Liberty because they were
(21) working on that since 1991.
(22) Q: Is there a file where the licenses are

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(1) kept, then?
(2) A: For what I know that it was sent to Bruce
(3) McKennon's office and they were kept there.
(4) Q: Did there come a time when Bruce McKennon
(5) left Liberty Cable?
(6) A: Sorry?
(7) Q: Was there a time when Bruce McKennon left
(8) Liberty Cable, no longer worked for Liberty?
(9) A: Yeah, he left at some point.
(10) Q: And can you recall at what time Bruce
(11) left?
(12) A: I would say that if--I would say it was
(13) somewhere in '93, close to, I would say, about just
(14) about this time, May, April, May of '92.
(15) Q: Who became your supervisor upon
(16) Mr. McKennon's departure from Liberty Cable?
(17) A: At that point, after Bruce McKennon left,
(18) I guess it was the internal meeting which I wasn't
(19) in there, but later on I was told by Tony Ontiveros
(20) that it is an organizational change, and he told me
(21) that he was promoted to do the day-to-day
(22) operation. I don't think that anybody got Bruce

(1) McKennon's title.
(2) As far as I recall, Tony Ontiveros was a
(3) general manager, still is a general manager, but he
(4) was taking over responsibility of Bruce McKennon,
(5) and ultimately everybody was reporting to Bruce
(6) McKennon, would report to him.
(7) Q: Now, if Mr. McKennon kept files of FCC
(8) licenses, do you know what would have happened to
(9) these files upon his departure?
(10) A: Yes. Relocated those files.
(11) Q: And they were relocated to where?
(12) A: To where we were at Normandie Court. See,
(13) our office--Mr. McKennon's office was in a place
(14) called 30 Rockefeller Plaza, where basically when I
(15) started with Liberty, that was the actual location
(16) that I interviewed and worked there.
(17) And then I believe in a couple of months
(18) later, in June of '92, they opened up an office
(19) where the head-end was for 96th Street, for the
(20) so-called technical operation to move up there. So
(21) myself and Tony Ontiveros moved up there, which
(22) organized the Operations Department up there.

(1) And then at some point I remember that
(2) during that time or maybe after that, early '93,
(3) that they moved from 30 Rockefeller Plaza to 575
(4) Madison in marketing, basically the corporate. And
(5) anything in the file, anything that was technical,
(6) was distributed up in Normandie Court where we
(7) were, and the file was there, but also the license
(8) for the transmitters was always posted up at the
(9) transmitter sites.
(10) So we had that but the document, what I
(11) mean by license document, I meant by any FCC
(12) applications and so on and so forth, most of the
(13) technical information which goes to the FCC
(14) application. Those files was the ones that,
(15) although the license itself, when you go to any
(16) transmitter location, you would see that posted.
(17) Q: You stated before that FCC files and
(18) licenses were sent to Bruce McKennon. After he
(19) left the company, who were they sent to?
(20) A: For what I recall, for a while that nobody
(21) informed FCC that the address was changed. That
(22) means we are so-called location is 95th Street,

(1) licenses or application, whatever it was, because I
(2) didn't see them. They were sent to 30 Rockefeller
(3) Plaza and they would come back, and for a period of
(4) time I never saw any application come to where I
(5) was. But eventually at some point we corrected
(6) that and the application originally would come to
(7) 575 Madison and then was sent to 95th Street or
(8) they would come to 95th Street.
(9) Q: What was the period of time where there
(10) was a problem getting the filings because of the
(11) address?
(12) A: I would say that maybe six months, seven
(13) months after probably--during the '93 period, there
(14) was a time because when I was--because Mr. McKennon
(15) was signing those until he departed and everything
(16) was going to him, but there was a time he was still
(17) with our company, but the application would go to
(18) the 30 Rockefeller and might have been there, but
(19) nobody could locate it, so at some point we would
(20) probably get that.
(21) And sometimes we never found some of those
(22) applications which was sent to them, so we

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(1) requested the Pepper & Corazzini at some point to
(2) make copies and send them because generally they
(3) would have kept a copy of what they had filed to
(4) FCC, so that was another way of I know that couple
(5) since-I don't recall exactly when and for what
(6) applications that sometimes we needed it, probably
(7) if we couldn't find it-the rule is if you can't
(8) find it, call them and they would send it to us.

(9) Q: By 1994, the address problem had been
(10) corrected?

(11) A: I would believe so, yes, because at that
(12) point I would be the one where the applications
(13) would come to.

(14) Q: When Mr. McKennon left the company, did
(15) your duties and responsibilities change in any way?

(16) A: My responsibilities? No, have not.
(17) Except one thing that I was doing, signing
(18) of the applications, and because Mr. McKennon would
(19) sign the application, I would sign the application
(20) after that.

(21) Q: When Mr. McKennon left the company, did he
(22) give you any instructions about how to proceed

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(1) particularly with FCC applications?

(2) A: No, not that I recall.

(3) Q: At this point was your title Director of
(4) Engineering?

(5) A: Yes. 1992, as I mentioned, that
(6) transition period was passed, that was one of my
(7) requests where the job was to have title of
(8) Director of Engineering, so I was a Director of
(9) Engineering since I was hired as permanent.

(10) Q: And I want to talk about the time period
(11) of 1994 and 1995 now.

(12) What were your responsibilities-strike
(13) that.

(14) Let's say Liberty, during that time period
(15) or during that time period 1994 to 1995, Liberty
(16) continued putting additional receiver sites on top
(17) of buildings; correct?

(18) A: Yes.

(19) Q: I want to talk about the process of how
(20) Liberty went about doing that.

(21) What would typically be the first step, if
(22) you know, if Liberty became interested in putting a

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(1) receiver site on a building?

(2) A: Technically, by that question you mean
(3) that when the sales people come in and say we have
(4) a building, we would like to follow that, or after
(5) the building is signed?

(6) Q: Before the building is signed.

(7) A: Before the building is signed, generally
(8) speaking, I would get-they would send after they
(9) negotiated with the building or whatever they have
(10) done, that's a marketing question, I would get the
(11) request from marketing that let's do the site
(12) survey and see the feasibility study for that
(13) building, and at that point the site survey would
(14) be done. And the result of the survey would go
(15) back to the market.

(16) Q: And the site survey tells you whether you
(17) have a line of sight with the transmitter; correct?

(18) A: Whether you have a line of sight, whether
(19) the building is feasible for microwave as far as
(20) the static concern, or any other technical. And
(21) also distribution was part of the survey, take a
(22) look at the distribution and feasibility of it, but

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(1) site survey was the most important. If you don't
(2) have it, you won't be able to do anything about it.
(3) That's where it starts.

(4) Q: Is the second step, then, if the sight
(5) survey showed everything was okay, did the
(6) marketing people then try to negotiate a contract
(7) with the building?

(8) A: I'm not aware of that. Could have been
(9) sometimes they were going to do feasibility study.
(10) My job was just to do the site survey and give them
(11) the report. I wasn't involved in any contract
(12) negotiations, so I don't know.

(13) Q: Would you have any involvement then in
(14) between the site survey and until there is a fully
(15) executed contract?

(16) A: My only involvement would be if there is
(17) any technical questions asked, means that when the
(18) sales people would talk with their customer, they
(19) might have some technical information, they needed
(20) it, and it wasn't on the site survey report. They
(21) would have called me, then we will discuss that,
(22) and I will give them the information. That was the

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(1) only involvement I had purely technical.

(2) MR. WEBER: I'm showing the witness what
(3) has been previously marked as Ontiveros Number 4.
(4) (Document handed to the witness, and
(5) witness reviews document.)

BY MR. WEBER:

(7) Q: You don't have to read it real closely.

(8) A: Okay.

(9) Q: I'm first going to ask you if you think
(10) you have seen this document before.

(11) A: This particular document?

(12) Q: Yes.

(13) A: I have seen similar document like this
(14) because this is a general-I would say that this is
(15) just a general agreement that I sometimes see that.
(16) Whether I saw this particular one, I don't recall,
(17) but I could tell you that this is a standard
(18) general agreement that I generally sometimes see
(19) when we are trying to-everything is executed at
(20) some point come to us.

(21) And I get not something like this, but I
(22) will get the cover generally which is a memorandum

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(1) to Tony Ontiveros or myself that says a certain
(2) building has been signed and costs so-and-so and go
(3) ahead with it.

(4) And I will only get the first copy, and at
(5) some point if I need to get a little bit more
(6) detail on the contract, then Tony Ontiveros has
(7) that in his file and I go get that.

(8) This, to me, is pretty much similar to
(9) that standard document. Whether I saw that
(10) particular one, I can't recall, because they are
(11) similar. I have seen a similar contract like that,
(12) but I don't recall particularly seeing the Wales
(13) one. I certainly haven't seen-I don't recall this
(14) one either.

(15) MR. BEGLEITER: This one you are referring
(16) here to is production 005744.

(17) THE WITNESS: Yes, but the document is a
(18) general document.

(19) MR. WEBER: I'm also going to show the
(20) witness Berkman Exhibit 4.

(21) (Document handed to the witness.)

(22) THE WITNESS: Yes, that's more familiar.

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(1) yes.

BY MR. WEBER:

(2)
(3) Q: And you can recall receiving documents
(4) like this one from Mr. Berkman?

(5) A: I see those--yes, he faxed that to us, and
(6) I will get documents like that similar. I don't
(7) recall I get for every building, but generally he
(8) sends those and I will get them, yes.

(9) Q: And your responsibilities, what is the
(10) significance of receiving this document or a
(11) document like this?

(12) A: Doesn't alter what I have been doing
(13) because I know before that there is some meetings,
(14) weekly meetings, with those meetings when
(15) Mr. Ontiveros attends, and staff meeting I call it.

(16) At that staff meeting they verbally say
(17) that this is the building is being signed or
(18) contracted, and then that is the one I will
(19) probably generally go with. This document--I don't
(20) wait for this document before I start my work. I
(21) already know this thing is on the way or it's been
(22) worked on. This document actually comes back

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(1) afterwards, but things are discussed in the
(2) meeting, I guess. I will get that later on.

(3) Q: Did you say you attend these staff
(4) meetings?

(5) A: I said I do not. Mr. Ontiveros attends.
(6) The only concern I have over this document
(7) is not only this one, but the contract one is if
(8) there is some stipulation for installation and
(9) turning on which the customer may have, I will put,
(10) for example, if we need to use union people for the
(11) buildings or certain color of antenna they want
(12) that for their building, which I may not know
(13) because I routinely go to the buildings, but we
(14) work out in the contract generally, somebody looks
(15) at it, they tell me, I go over that just to make
(16) sure there isn't any exception to the rule, so to
(17) speak.

(18) Other than that, that doesn't have any
(19) impact on what I'm doing.

(20) Q: Is it Mr. Ontiveros, then, that instructs
(21) you to begin work on a given building from what he
(22) learned in the staff meeting?

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(1) A: Yes. Every work which was supposed to be
(2) done on any building, spend any money and start the
(3) projects, that will come back from him after his
(4) staff meetings.

(5) Q: And what are the first tasks you performed
(6) once you are told to begin work on a building? And
(7) again, let's focus mainly on '94 to '95 time
(8) period.

(9) A: We order the material. I would proceed
(10) with designing the system and do the engineering
(11) work on the system.

(12) Q: What do you mean by doing engineering work
(13) on the system?

(14) A: Trying to make sure that within the
(15) network, what is the feasibility, what type and
(16) size of antenna I need to use because the system
(17) has to also be profitable, so you have to split
(18) that transmitter, it's a station, you would split
(19) it a number of ways.

(20) And system is a lower power system, and
(21) when you are splitting that, eventually you are
(22) running out of signal strength so you have to add

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(1) amplifiers. So therefore part of the design is you
(2) not only look at what you are designing today. You
(3) have to look for tomorrow, because that is the
(4) system, a dynamic system.

(5) So by engineering, I make sure from one
(6) direction how many antenna I'm transmitting so I
(7) want to split later, and then get the most
(8) efficient, most efficient and cost effective out of
(9) this system, not in the future year, --
(10) year-and-a-half. This type of work you have to
(11) look ahead because it's a dynamic network.

(12) So by engineer means I look ahead as well
(13) as just going and doing that. So I did the system
(14) engineering.

(15) And following that I get all the
(16) coordination and all the data information for
(17) Comsearch to go to the search firm to be
(18) coordinated for the building.

(19) Q: Were these tasks ever instructed to you by
(20) any of your superiors at any time during your
(21) employ at Liberty?

(22) A: The tasks that I just related to you?

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(1) Q: Yes.

(2) A: No. I was hired to engineer and build a
(3) network, and that's what I did.

(4) Q: And you already knew in advance that these
(5) were the steps to follow when designing a system
(6) for a building?

(7) A: Yes.

(8) Q: When you received Comsearch coordination,
(9) coordination survey from Comsearch, what would you
(10) do with that?

(11) A: What do you mean by coordination survey
(12) from Comsearch?

(13) Q: You said you got the coordination from
(14) Comsearch. That was one of the tasks; right?

(15) A: If what you're referring to is I got all
(16) the data and information and I submitted to
(17) Comsearch and I asked them for coordination
(18) process, and after they did that, they send me
(19) called PCN. That's prior coordination notice.
(20) That shows transmitter receivers and all the data
(21) that I gave them. Yes, they send that back to me
(22) and I reviewed that. Comsearch never done anything

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(1) technically on their own.

(2) Q: Did you send the PCN to anybody else?

(3) A: After I reviewed them?

(4) Q: Yes.

(5) A: No.

(6) Q: Anywhere within this process of beginning
(7) work on a building, did you have any contact or
(8) were you to have any contact with the people at
(9) Pepper & Corazzini?

(10) MR. BEGLEITER: I'm going to object, but
(11) go ahead and answer if you can. You can answer the
(12) question.

(13) THE WITNESS: Yes. The time that I start
(14) with Pepper & Corazzini was--only talk with Pepper
(15) & Corazzini was the only time after I reviewed the
(16) Comsearch information that I proceeded to them and
(17) they did the search study.

(18) At that point I told--the procedure was
(19) that after some time needed to be corrected, either
(20) there was a typing mistake or something didn't go
(21) to them, and after they completed theirs and I was
(22) satisfied with coordination, and probably go with

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[1] coordination, send that information out, they were
[2] directed. And it was a routine basis, I wouldn't
[3] repeat to them everyday, but it was established
[4] that as soon as I was satisfied with the technical
[5] part of it, they would send information to Pepper &
[6] Corazzini. And my understanding with Pepper &
[7] Corazzini and the procedure--my instruction to them
[8] was to go ahead and prepare for the application.

[9] Incidentally, when we went to that,
[10] something I forgot is to expedite the matter
[11] further, they would have sent me stack of last page
[12] of the application and I would sign that, and I
[13] would send it to them because I didn't want to go
[14] through--the position was don't go through them
[15] getting the information from Comsearch, preparing
[16] their application, sending it to me. I reviewed it
[17] or I sign it, send it back to them.

[18] The important thing on the application is
[19] that when we all saw that is the transmitter
[20] locations are pretty much offset. For example, if
[21] it's Normandie Court which is licensed, that
[22] transmitter data is always the same. The building

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[1] height doesn't change. The ground elevation
[2] doesn't change. Most of the information on the
[3] application of the existing transmitter is you do
[4] your add-on of new receiver.

[5] So you basically supplement your
[6] coordination, so therefore I didn't see was needed
[7] to review application every time because all the
[8] application are duplicate. The only thing is what
[9] it supplemented to it, which was the coordination
[10] of the Comsearch--I always reviewed before they
[11] sent it out.

[12] Therefore, I signed a stack of last page
[13] of that application. I done as much as 30 or 35
[14] every time because it wasn't only for the new
[15] building, if it was any building that we needed
[16] to--minor changes and everything which required
[17] another application be filed for FCC, they would
[18] have that, and the understanding was as soon as
[19] Comsearch satisfied me that data is okay, he would
[20] fax or send it quickly to Pepper & Corazzini, and
[21] then they proceed with the filing, and they had my
[22] signature. All they had to do was date it out and

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[1] send it out.

[2] And I would at some point call them. I
[3] would let them know that this building is coming to
[4] them, and make sure the Comsearch is understood
[5] that he's got to send all the data sheet to them.
[6] And at that point I would proceed with building the
[7] system.

[8] Q: I'm just going to briefly show you what
[9] was previously marked as Lehmkuhl Exhibit 1 and
[10] have you thumb through it briefly and see if you
[11] could identify this as being an application for a
[12] microwave receiver site for me.

[13] (Document handed to the witness, and
[14] witness reviews document.)

[15] MR. BEGLEITER: Just tell the witness it
[16] begins at 0001 and ends 0031. Is that all right?

[17] MR. WEBER: Yes.

[18] MR. BEGLEITER: That's Lehmkuhl 1. And he
[19] wants to know whether or not you recognize that as
[20] an application.

[21] THE WITNESS: Yes, that's correct.

[22] BY MR. WEBER:

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[1] Q: Whether you said you were signing the last
[2] page, that's actually the page numbered there 0004;
[3] correct?

[4] A: That's correct.

[5] Q: Can you tell me approximately how long a
[6] delay there is between the time you contact
[7] Comsearch and want them to do a coordination until
[8] you get the PCN?

[9] A: From Comsearch?

[10] Q: From Comsearch.

[11] MR. BEGLEITER: I will object.

[12] Answer, if you can.

[13] THE WITNESS: It varies. It depends on
[14] two things. One is if I ask them to expedite it
[15] and it ends up being close to the holidays, for
[16] example. Usually anywhere between ten days, 15
[17] days. It happens that way, unless, again, we have
[18] to expedite it, and then they may do it a little
[19] faster. But it's purely a guess. It varies.
[20] There is never an exact.

[21] BY MR. WEBER:

[22] Q: Did you occasionally ask them to expedite

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[1] it?

[2] A: I recall that I asked them on couple of
[3] occasion to expedite it.

[4] Q: For what reasons did you ask them to
[5] expedite?

[6] A: It could have been because it was some
[7] problem with the coordination of some point, the
[8] technical data that they did that. It wasn't what
[9] I wanted it. I redesigned it, I did that before I
[10] gave it to them and they came back and I decided
[11] that I would like to do it differently.

[12] Example of it could be that I had an
[13] antenna which I tried to coordinate with, and I
[14] found out that antenna is not going to be here on
[15] time, so let me have another antenna setting in the
[16] warehouse. That has information, and generally all
[17] this takes time. It could have been on a couple of
[18] occasions that again I needed to expedite the
[19] process because I knew it was close to the holidays
[20] and I wanted them to move on that because I didn't
[21] want to--those are what I recall.

[22] Q: Can you recall if there was ever a need to

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[1] expedite to speed up the process of getting service
[2] to the building?

[3] A: For what I recall, it might have been
[4] couple of occasion that I did that. Again, purely
[5] the fact that I felt that what they are doing or if
[6] he was supposed to--they were supposed to provide
[7] that information for me within two weeks that's
[8] been little delayed, and when I get it I felt he
[9] should probably expedite that to make sure whatever
[10] time we lost, for whatever reasons, I don't really
[11] recall, that it will actually be saved on the other
[12] side of the process.

[13] Q: Now, you stated that at some point you
[14] called Pepper & Corazzini to let them know that I
[15] guess the Comsearch PCN was coming?

[16] A: The procedure with Pepper & Corazzini was
[17] always set, that they always have to expect
[18] something coming from Comsearch. It wasn't that I
[19] called them every time, but I made sure that, yes,
[20] they understand that a lot of time I even told them
[21] before even Comsearch does the coordination.
[22] By the time I fax the information to

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[1] Comsearch, then I let them know that they get ready
[2] because it's coming to them, and they were working
[3] with Comsearch because they were both in the city,
[4] and I felt that would be a lot faster. I tried to
[5] get everything expedited as far as we could
[6] ourselves physically.

[7] Q: Who specifically at Pepper & Corazzini did
[8] you deal with? Right now we are talking about the
[9] '94 to '95 time period.

[10] A: Well, I was working with a lady named
[11] Jennifer Richter, and I don't know when she left,
[12] but when she left it was gentleman named Michael
[13] Lehmkuhl.

[14] So I can't tell you for certain sometime
[15] she left in '94, sometimes Lehmkuhl took over in
[16] '94. So that's during that time. They were just
[17] two that I was generally dealing with.

[18] Q: Did you ever work with or have contact
[19] with Howard Barr?

[20] A: Howard Barr, I knew that that was—he was
[21] their supervisor. My contact with Howard Barr, the
[22] first time I met him was when I had a meeting here

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[1] in 1994, the time Mike Lehmkuhl took over.

[2] And I just came to Washington. I'm not so
[3] sure I came for that particularly. But we talked
[4] with—I talked with Howard before a couple of times
[5] on the phone but not related to what we were doing.
[6] He was in charge of sending a lot of information of
[7] FCC new ruling for satellite or something for
[8] general public. He would just send that. Doesn't
[9] direct it to me. Would send it to all his-known
[10] the titles, all their coordinators, all the people
[11] who were involved. He would send that and sign
[12] that.

[13] But I knew Howard Barr was the person
[14] those two peoples report to. But when I met him
[15] then, and then the next time I was speaking with
[16] him on the phone was, I guess, in '95, May '95 when
[17] we were working on some of these affidavits.

[18] MR. WEBER: This would be a fine time for
[19] a break.

[20] (Brief recess from 10:55 a.m. to 11:20
[21] a.m.)

[22] MR. WEBER: Back on the record.

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BY MR. WEBER:

[1] Q: We have been discussing some of the
[2] processes you follow in order to install a building
[3] or install a microwave receiver on a building. And
[4] I mentioned to you or asked you whether or not
[5] Mr. McKennon or anybody has given you specific
[6] instruction that these are the steps to follow, and
[7] then you stated no, nobody had.

[8] My question, then, is how was it that you
[9] knew which things you were responsible for and
[10] which things somebody else would take care of?

[11] A: I think that what your question was that
[12] did Mr. McKennon ask—talk to me about that, but
[13] now you stated that Mr. McKennon or anybody else.
[14] So Mr. McKennon didn't discuss any procedure with
[15] me.

[16] But when I started it when I was talking
[17] with Mr. Stern, which he was providing us with the
[18] information of the transition, he showed me on 1991
[19] some of the application, which was filed, and I
[20] looked at the application and I understood the
[21] process was that—it's got to be the technical part

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[1] of it and the legal part of it, and the mention
[2] that there is a Comsearch or a search firm which
[3] does that prepare, and Pepper & Corazzini which
[4] would do the application.

[5] My previous jobs, had in-house counsel or
[6] someone else was doing that. I had never been
[7] involved in getting into the legal part of the
[8] applications. The only thing I was doing was the
[9] technical part of it.

[10] Therefore, when I joined in the process of
[11] transition time, I saw the file, some of the files,
[12] and I even saw some of the STAs, which was filed
[13] the same time for the application was filed.

[14] So I was told that this is a Comsearch,
[15] and I knew the coordination process. If the
[16] question you're asking is do I know that you have
[17] to have a license to turn off the system, the
[18] answer is yes. You have to have a license to turn
[19] on the system.

[20] But as far as the procedure—procedure, my
[21] involvement was always to get all the information,
[22] get the data sheet, talk with the coordination,

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[1] make sure technically everything is good, and
[2] assure that they are going out for the prior
[3] coordination, there is no interference, nobody
[4] bothers us and we don't bother anybody technically,
[5] and they are another part of the house, whether
[6] there is counsel in house or people that you hire
[7] to do that work. Liberty was Pepper & Corazzini,
[8] which they worried about getting the application
[9] forms filled out.

[10] And the president of the company was
[11] supposed to make sure I signed that. And I made an
[12] arrangement, as I mentioned before, signed the last
[13] page because I was sure technically
[14] that—technically that application is for certain
[15] transmitter which—all the data has been the same.
[16] So would go to that.

[17] Q: You understood, then, early on that there
[18] was no in-house counsel who was handling FCC
[19] matters; is that correct?

[20] A: My understanding of in-house counsel was
[21] the people we pay to do that. No, that is not what
[22] I meant. Other—in the past we had in-house

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[1] counsel, and my previous job we had in-house
[2] counsel. He was there, I knew his position, he was
[3] doing the work.

[4] In this case, you have a counsel
[5] in-lawyers in Washington, like Pepper & Corazzini.
[6] To me that's in-house counsel because that is the
[7] firm which has been hired to do this work. I have
[8] never been associated with a company that had an
[9] in-house counsel within the company and have same
[10] people do the same thing outside.

[11] As I mentioned before, it was in-house
[12] counsel, and there was person in Washington which I
[13] would call kind of a clerk type, she would do the
[14] clerical. She wasn't a lawyer. All the
[15] information to her was done from counsel. But
[16] Pepper & Corazzini, to me, was the same
[17] differences, was the whole thing molded into one,
[18] and they were the one who—my understanding of what
[19] their job is, to make sure all the legal part of
[20] these things are done, the processes are being done
[21] that we agreed on.

[22] Q: During the transition period, were you

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(1) responsible for contacting Pepper & Corazzini at
(2) that point?

(3) A: During the transition period, one of my
(4) job was to make sure that this network technically
(5) is feasible, and some of the building which was
(6) already signed up and it was coordinated, they are
(7) all as far as all the data technical part of it was
(8) correct.

(9) After I joined there were technical errors
(10) which a few of them needed the major coordination
(11) such as coordination latitude and longitude was in
(12) a different locations, so therefore that
(13) constitutes to be a major. If it was five-feet,
(14) six-feet height difference, my recollection is some
(15) would be minor-not if it wasn't designated
(16) correctly, the manufacturer provide that that would
(17) be some of the minors.

(18) I went and checked and then I made sure
(19) that I coordinated some of those, and then I needed
(20) to do the modification. Therefore, at that point I
(21) started with Pepper & Corazzini and the Comsearch
(22) on the modification part of it. We never discussed

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(1) on the general procedures. That was already in
(2) place.

(3) Q: Did there come a time where you became a
(4) contact person with Pepper & Corazzini as to
(5) applications for new facilities?

(6) MR. BEGLEITER: I object to the form of
(7) the question.

(8) Answer, if you understand it.

(9) THE WITNESS: Yes. It is not really
(10) clear. The reason is there are other people
(11) contacted Pepper & Corazzini. Example was if they
(12) needed a check, they wouldn't come to me and say we
(13) need a check to file with the FCC.

(14) So there might be other people contacting
(15) them. I'm not aware of that, but I knew as a
(16) procedure I never got their bill. I never got the
(17) request for that. So I'm assuming there were some
(18) other people contacting them.

(19) Q: To make the question more clear, then, as
(20) for technical information, were you the contact
(21) person with Pepper & Corazzini?

(22) A: I would say yes, but I'm not so sure they

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(1) had too much of a technical question because much
(2) of the technical question was me to them. Really
(3) from me to Comsearch.

(4) After Comsearch, the only thing I would
(5) talk with Pepper & Corazzini which had any
(6) technical relation was that there is some changes,
(7) is it major or is it minor. They would tell me
(8) it's major or minor, and then advise me to proceed
(9) with the coordination process again or it's a
(10) minor, then they will take care of it.

(11) Q: I want to be sure I'm clear on this.
(12) Was the way Pepper & Corazzini learned
(13) that they need to prepare an application is because
(14) you instructed them to?

(15) A: The procedure was always there, that you
(16) clear the frequency, go over the coordination and
(17) make Comsearch is good, and then you
(18) hand-information is handed to Pepper & Corazzini.
(19) I made sure that the Comsearch does that. After
(20) that, it was their job to go ahead with the filing
(21) and continue with that and get the license.
(22) I would probably at that point I would

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(1) probably refer to them because before me they were
(2) still doing the work, and when I joined them, it
(3) was just a continuation of that.

(4) And they understood that that is the
(5) procedure. That's why the suggestion was made to
(6) sign those applications blank, I will call it
(7) blank, and send bunch over to them and they would
(8) proceed.

(9) I looked at them, they're the counsel,
(10) they're the legal people. They got to be able to
(11) do that and make sure everything is authorized.
(12) That's what the procedure was.

(13) Q: You stated that you made sure Comsearch
(14) would send them the information. How did you make
(15) sure that would be accomplished?

(16) A: I will ask them to, after the coordination
(17) was done, I would tell them to send them the copy,
(18) faxed copy of the coordination sheet. And either
(19) at that point or prior to that I would have made
(20) Pepper & Corazzini realize that we were doing some
(21) new study for new buildings, and then I left it up
(22) to those people to do that, because supplemental

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(1) showing would not come to me. It would go to
(2) Pepper & Corazzini because they need it for the
(3) filings. So everything was for the record to them.

(4) Q: Who at Comsearch did you deal with?

(5) A: There were a number of people. If we look
(6) at the supplemental showing and applications, you
(7) realize the number of people my association with
(8) Comsearch shows about every five, six months they
(9) have a new person assigned. I will say they were.
(10) I know they were young. Right now I'm dealing with
(11) a guy named Mike Whitley. There were a couple of
(12) other guys. Definitely young, started somewhere in
(13) '94. But there were a number of them that I dealt
(14) with.

(15) Q: I'm going to show you what was previously
(16) marked as Ontiveros Exhibit 7, which in the book
(17) you have it runs from pages seven through 61-I'm
(18) sorry-15 through 61.

(19) MR. BEGLEITER: I would like to use Bates
(20) numbers also because we don't have the other
(21) numbers.

(22) MR. WEBER: Bates numbers 15467 through

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(1) 15513.

(2) MR. BEGLEITER: Thank you very much,
(3) Mr. Weber.

BY MR. WEBER:

(5) Q: If you could look through this and tell me
(6) if you recognize what these documents are.

(7) A: From 15 up?

(8) Q: Right.

(9) A: The first page I don't recall I ever saw.
(10) Neither the second.

(11) MR. BEGLEITER: He may not understand.

BY MR. WEBER:

(13) Q: There may be a lot of places stamped
(14) "redacted," which means your counsel has taken out
(15) information irrelevant to this proceeding. If you
(16) have seen it in this form, generally if you seen
(17) these types of documents before, I mean like you're
(18) looking now on the page stamped 15470. You
(19) recognize-

(20) A: I don't recognize this. All I recognize
(21) is '70, because it's what it's called, a weekly
(22) progress report which I mentioned sometime when the

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[1] building is newly contracted that comes in.
[2] Q: Did you play any role in the putting
[3] together of the weekly progress reports?
[4] A: We had a meeting with Mr. Ontiveros which
[5] we will discuss time period, yes, which systems to
[6] turn off or not, yes. I will give my assessment of
[7] where we are standing, with the various parts of
[8] the projects, buying equipment and stuff like that.
[9] Besides that that I mention, whatever was
[10] in the weekly report that I saw which was generated
[11] by Tony Ontiveros, none of these I have seen, up to
[12] right now I'm page 26 and continuing. Again page
[13] 31 is the same form. Installation Progress Report
[14] is the only one that I'm familiar with because that
[15] is generated by operations.
[16] Q: Actually I would like you to look at some
[17] separate pages. If you notice where the large
[18] numbers are stamped at the bottom, find the one
[19] 15470 and kind of keep your thumb there, and also
[20] find 15483.
[21] A: Yes.
[22] Q: Now, if you notice at the top of 470, it

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[1] states that this is a progress report for April
[2] 4th, 1996.
[3] A: Yes.
[4] Q: And then on 483 it says October 5th, 1995;
[5] correct?
[6] A: That's correct.
[7] Q: Now, if you look at the one 1996, the one
[8] on page 470--
[9] A: That's 1995. 1996, yes.
[10] Q: --the far right-hand column is "licensed,"
[11] correct?
[12] A: Yes.
[13] Q: Do you know what information would go into
[14] those boxes on that column? If you don't know, say
[15] you don't know.
[16] A: The only one aspect of it that I knew is
[17] part of this was look at when we were doing the
[18] common buildings which did not require at the time
[19] do the FCC licensing for it. The indication I
[20] recall "T" Block, and they would write that as "T"
[21] Block. And that's the only thing I could see on
[22] that.

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[1] Q: Then the next question may be irrelevant.
[2] On page 483, the October 5th, 1995 report, you
[3] notice in the far right column there is no category
[4] for license. Do you know why?
[5] A: Yeah, because this installation progress
[6] report, as it says, was mainly technical
[7] information. It wasn't the legal part of it. It
[8] was basically technical to see where we are
[9] standing, where are the projects, and that was it.
[10] Q: Is licensing part of the procedure of
[11] where you are at in installing a building?
[12] A: At the moment it is, at right now, since
[13] 19 April 1995, May '95.
[14] Q: I'm not quite sure I understand your
[15] answer, then. Was it not an issue prior to April
[16] of '95?
[17] A: Prior to April '95, it was the procedure
[18] that Pepper & Corazzini, through the coordination
[19] process, it would go to them, and the legal part of
[20] it, they would take care of that.
[21] But after April or May of '95, which we
[22] found out some of these buildings were not the

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[1] process corrected by them, then we asked them to
[2] provide a report. And that's why right now things
[3] are done more closely. Before that it was they are
[4] the legal people do that. My job was to do the
[5] building, and they were supposed to keep track of
[6] all this.
[7] And we found out as by May, some buildings
[8] was not, so that procedure was taking place when we
[9] started to really find out what they had done, and
[10] they look at what happens in 1995. And that
[11] procedure right now is in place, but at that point
[12] this was mainly technical.
[13] Q: Prior to April of '95, how, if at all,
[14] would you learn when a license had been granted by
[15] the FCC?
[16] A: After I started the coordination, and the
[17] procedure was that Comsearch would send that
[18] information out, and in the same time that Pepper &
[19] Corazzini would prepare the file, should have been
[20] prepared as soon as they get that because my
[21] signature was in there, everything was written,
[22] they wait for that coordination process, whether it

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[1] was expedited, and at that point they send that out
[2] and put a Special Temporary Authority on them
[3] because of the time that we had to turn the
[4] building on.
[5] And the procedure would be as soon as it
[6] did that, my understanding was that we could go
[7] ahead and turn the system on.
[8] Q: I want to be sure I understand what you
[9] just stated. Was it your understanding that you
[10] could turn the system on after an STA request had
[11] been filed?
[12] A: That's correct.
[13] Q: And where did you obtain this
[14] understanding?
[15] A: When we discussed in 1993, '92, when we
[16] were looking at some procedures that generally
[17] procedure that's continuing of that, I saw in some
[18] of the files that were done in '91, '92, there was
[19] a file, and what called STA, Special Temporary
[20] Authority.
[21] And at some point I talked with Pepper &
[22] Corazzini, what is the procedure for those, and

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[1] they mentioned that--
[2] MR. BEGLEITER: Let me talk to the witness
[3] for a second.
[4] (Counsel confers with the witness.)
[5] MR. BEGLEITER: I think there was a
[6] misunderstanding, Mr. Weber.
[7] MR. WEBER: I note for the record that
[8] there was an off-the-record discussion between
[9] counsel and the witness to the degree that counsel
[10] may have been cautioning the witness not to divulge
[11] any attorney/client privileged communications. I
[12] have an objection to any degree that counsel was
[13] coaching the witness, of course, strenuously.
[14] MR. BEGLEITER: What are you objecting to?
[15] MR. WEBER: If you were coaching the
[16] witness on an answer.
[17] MR. BEGLEITER: Just to be clean, I was
[18] asking the witness whether he had listened
[19] carefully to the question you had asked because I
[20] don't believe--I believe there is some confusion
[21] that has arisen.
[22] I also discussed with him whether or not

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[1] there was advice given to him, whether it was
[2] attorney/client privilege.
[3] If you want to answer the question.
[4] **BY MR. WEBER:**
[5] **Q:** Do you want me to re-ask the last
[6] question?
[7] **A:** Yes.
[8] **Q:** I was understanding one of your answers to
[9] be that you understood that you could turn on a
[10] facility after a Special Temporary Authority or STA
[11] application had been filed.
[12] **A:** After they get the coordination completed
[13] and they file the application, what I say that they
[14] could file, my understanding is they could file the
[15] STA at the same time as they were filing the
[16] application.
[17] And, therefore, the filing of the
[18] application with the STA, my understanding was it
[19] was done after the coordination of the Comsearch.
[20] At that point they will file it, and then my
[21] understanding was that after few days they will
[22] obtain the STA and then we will start. That's why

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[1] I wanted them to as soon as they got the
[2] coordination from Comsearch ready to file that that
[3] would not take so much time on that.
[4] And I mention that on the previous ones,
[5] they have done the application, and maybe within a
[6] week or two week after that saw some documents that
[7] had been applied for the STA. And then the grant
[8] of the STA will come and will turn on. My
[9] assumption was always that.
[10] **Q:** Why did you assume STA would be granted
[11] within a few days?
[12] **A:** That was--
[13] **MR. BEGLEITER:** This is going to reveal
[14] the conversation between Pepper & Corazzini, and if
[15] there are other reasons--
[16] **THE WITNESS:** No. Discussion was--
[17] **MR. BEGLEITER:** Whatever.
[18] **BY MR. WEBER:**
[19] **Q:** You did state that you had talked to
[20] people at Pepper & Corazzini in '92. Who did you
[21] speak to in 1992?
[22] **A:** Whoever was in charge. Jennifer Richter

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[1] might have been in charge at that point. I
[2] discussed various things with her.
[3] **Q:** Do you recall if you discussed STAs with
[4] Howard Barr?
[5] **A:** I don't recall that.
[6] **Q:** Do you know if you ever spoke to a Todd
[7] Parriott?
[8] **A:** I don't recall that, although I know his
[9] name because it was in some of the applications,
[10] but I think he was the guy that was doing some work
[11] in '91, '92 time. I don't recall.
[12] **Q:** Who, if anybody, would inform you upon the
[13] grant of an STA?
[14] **A:** Who informed me of the grant of the STA?
[15] I would not look for that. I was looking for my
[16] time that I'm supposed to turn the system on, based
[17] on the Comsearch coordination and then the
[18] application filing by Pepper & Corazzini with the
[19] STA application attached to it. And the time they
[20] told me that within a few days after that I should
[21] be able to get the STA.
[22] And based on that--

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[1] **MR. BEGLEITER:** I'm asking you not to
[2] reveal any conversations between you and Pepper &
[3] Corazzini in which they gave you advice.
[4] **THE WITNESS:** Okay.
[5] **MR. BEGLEITER:** Can you read the question,
[6] please.
[7] (Whereupon, the Court Reporter read back
[8] the previous question.)
[9] **BY MR. WEBER:**
[10] **Q:** Can you answer the question without
[11] revealing an attorney/client privilege?
[12] **A:** The STA would generally come to the person
[13] who signed that, and there were '92, '93, possibly
[14] part of '94, I would sign the application for STA,
[15] applying for STA with the same application that I
[16] was doing for FCC, but sometime the STA will come
[17] to the various offices that I mentioned to you, and
[18] whether it would be 30 Rockefeller Plaza or 575
[19] Madison, and it would be filed over there.
[20] **Q:** During the '94, '95 time period after the
[21] FCC granted an STA, do you know who they would send
[22] the authorization to?

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[1] **A:** Some of the authorization was sent to me
[2] under my name, and they were sent again other to
[3] various addresses, and some of those STAs was
[4] signed by Bruce McKennon at the time or it might
[5] have been Peter Price at the time and somebody
[6] else. And then it would be sent either to them or
[7] to me. But I was basically just doing when it
[8] would come in, it would be filed.
[9] **Q:** Bruce McKennon wasn't signing STA
[10] applications in the '94, '95 time period, though,
[11] was he?
[12] **A:** No. He wasn't even with the company.
[13] **Q:** Do you know whether or not the Commission
[14] issues any type of public notices announcing the
[15] grant of STAs?
[16] **A:** If they do, I'm not aware of that.
[17] **Q:** Do you know whether or not the Commission
[18] issues any type of public notices announcing the
[19] grant of underlying applications?
[20] **A:** What do you mean by underlying
[21] applications?
[22] **Q:** You were stating you know that Liberty

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[1] files applications for receiving
[2] locations--correct?--receiving microwave.
[3] **A:** Yeah, the applications filed for the
[4] transmitter close to that receiver.
[5] **Q:** Right. And then you stated that filed
[6] along with those applications you also had STA
[7] requests; correct?
[8] **A:** All I know is that I signed the same type
[9] of form for STAs that I did for the application,
[10] and the procedure was that they applied for that at
[11] the same time.
[12] **Q:** But you understand there is a difference
[13] between the application and the STA request;
[14] correct?
[15] **A:** Yes.
[16] **Q:** That the STA request is temporary?
[17] **A:** What?
[18] **Q:** The difference is mainly that the STA
[19] request is for a temporary authorization as opposed
[20] to the application that's for a full license;
[21] correct? Is that the way you understand the
[22] difference?